

MEMORANDUM

To: Regional Offices App. Processing No. 56  
Water Allocation Bureau

From: Norman C. Young, Administrator *NCY*

RE: IMPLEMENTATION OF SENATE BILL NO. 1054 - TEMPORARY  
WATER APPROPRIATION APPROVAL AUTHORITY

Date: May 5, 1993

Attached is a copy of Senate Bill No. 1054 (codified as Section 42-202A, Idaho Code) enacted during the last regular session of the legislature which authorizes IDWR to grant approvals for the temporary appropriation and use of water for minor uses of short duration. The purpose of this memo is to provide additional guidance. The legislation is now effective since the bill was enacted with an emergency clause.

The authority to grant temporary approvals in accordance with the statute and this memo is hereby delegated to the Water Allocation Bureau Chief, Permits Section Supervisor, and to each of the Regional Managers.

Applications for temporary approval should be processed as follows:

1. Staff review to insure the information provided adequately complies with the statute and this memorandum.
2. The application should be assigned an identification number which will be provided by calling the State Office for the next available number.

The identification number will contain a two letter prefix "TP", a basin number and a number which shows how many temporary permits have been issued in a given basin. i.e. TP-63-1

3. The approved temporary approval should be sent to the state office where it will be filed in the vault. The region should retain a copy for its records.

Depending on how many temporary approval applications are received, a data entry method of tracking the applications may be developed in the future.

If the temporary approval is within the boundaries of an irrigation district or will involve water delivered by a canal company or other water delivery organization, the department should

seek and consider comment from the district, company or organization before granting a temporary approval.

Temporary approval applications which propose to use ground water in critical ground water areas, ground water management areas and moratorium areas must be reviewed by the director prior to issuance.

IDWR's authority to grant temporary approvals extends only to natural water sources. Applications seeking approval to use water from a ditch or canal must identify the natural water source and the applicant must provide written approval of the owner of the canal/ditch system allowing use of the diversion/conveyance of the water. Similarly, applications from constructed drains will require written proof of access.

Temporary approvals do not authorize construction of new diversion facilities from surface water sources or any alteration to the stream channel.

Temporary approvals do not authorize construction of new wells.

STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES

**INSTRUCTIONS FOR FILING**  
**APPLICATION FOR TEMPORARY APPROVAL OF WATER APPROPRIATION**  
(5 AF or less)

Senate Bill No. 1054 (codified as Section 42-202A, Idaho Code) enacted by the 1992-1993 session of the Idaho Legislature authorized the Department of Water Resources to grant expedited approvals for the temporary appropriation and use of water for minor uses of short duration. The intent of this legislation is to provide flexibility to the department in authorizing minor requests for water use. Application must be made on department Form 202a and must be accompanied by a \$50 non-refundable application fee.

Some facts which you may need to consider before submitting an application for temporary approval include the following:

- The total amount of water which can be approved under a temporary approval can not exceed 5 acre feet. This volume of water is equal to 1,630,000 gallons.
- Use of water under a temporary approval is subject to all existing water rights.
- The applicant assumes all risk that the temporary approval may injure other water rights.
- The approval is not valid for more than one year.
- A temporary approval does not authorize the use of privately owned diversion and/or conveyance facilities.
- The department may cancel the approval at any time the department identifies an injury to other water rights or public values.

Your completed application and fee may be submitted to one of the following offices of the department:

**Northern Region**

Idaho Dept of Water Resources  
1910 Northwest Blvd., Suite 210  
Coeur d'Alene, ID 83814  
Phone - (208) 765-4639  
FAX - 765-2088

**Southern Region**

Idaho Dept of Water Resources  
222 Shoshone St. East  
Twin Falls, ID 83301  
Tel. - (208) 736-3033  
FAX - 736-3037

**State Office**

Idaho Dept of Water Resources  
1301 N. Orchard St  
Boise, Idaho 83706  
Tel. - (208) 327-7900

**Eastern Region**

Idaho Dept of Water Resources  
900 N. Skyline  
Idaho Falls, ID 83402  
Tel. - (208) 525-7161  
FAX - 525-7177

**Western Region**

Idaho Dept of Water Resources  
2735 Airport Way  
Boise, ID 83705  
Tel. - (208) 334-2190  
FAX - 334-2348

FAX - (208) 327-7866

STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCESAPPLICATION FOR TEMPORARY APPROVAL OF WATER APPROPRIATION  
(5 AF or less)

Name of Applicant \_\_\_\_\_ Phone \_\_\_\_\_

Post Office address \_\_\_\_\_

1. Source of water \_\_\_\_\_ Tributary to \_\_\_\_\_

2. Location of point of diversion \_\_\_\_\_ 1/4 \_\_\_\_\_ 1/4, Sec. \_\_\_\_\_ Township \_\_\_\_\_, Range \_\_\_\_\_

B.M., County \_\_\_\_\_

3. Location of place of use \_\_\_\_\_ 1/4 \_\_\_\_\_ 1/4, Sec. \_\_\_\_\_ Township \_\_\_\_\_, Range \_\_\_\_\_

B.M., County \_\_\_\_\_

4. Proposed use of water \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

5. Amount of water:

Maximum rate of diversion \_\_\_\_\_ cfs or \_\_\_\_\_ gpm.

Volume:

Max. daily vol. \_\_\_\_\_ AF, Total vol. \_\_\_\_\_ AF.

6. Duration of diversion: From \_\_\_\_\_ to \_\_\_\_\_  
Day-month Day-month

7. Proposed diverting works \_\_\_\_\_

8. Who owns the property at the requested point of diversion? \_\_\_\_\_

\_\_\_\_\_

9. Describe the arrangement allowing access to the water \_\_\_\_\_

\_\_\_\_\_

10. Remarks \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

I hereby acknowledge that I assume all risk if the diversion and use of the water under this approval injures other water rights. I certify this is a temporary use and that I am not seeking a continuing right to use water.

Date \_\_\_\_\_

Applicant \_\_\_\_\_

Received by \_\_\_\_\_ Date \_\_\_\_\_ Time \_\_\_\_\_

\$50.00 fee received by \_\_\_\_\_ # \_\_\_\_\_ Date \_\_\_\_\_

Watermaster Comments received? \_\_\_\_\_ Date \_\_\_\_\_

## **ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES**

This is to certify that the department has examined this application for temporary approval to use water under the provisions of Section 42-202a, Idaho Code, and has determined that:

- \_\_\_ a) The application for temporary approval should be denied.
- \_\_\_ b) The application for temporary approval should be approved, since
1. The temporary approval can be properly administered.
  2. Other water sources are not readily available.
  3. The approval is in the public interest.
  4. The approval will not injure known public values associated with the water source or any known water rights.

This application is therefore hereby:

- \_\_\_ a) DENIED
- \_\_\_ b) APPROVED, subject to the following conditions:
1. Diversion and use of water under this approval is subject to all valid existing water rights.
  2. The applicant assumes all risk the use of water under this approval may injure other water rights.
  3. This approval authorizes a maximum diversion of \_\_\_\_\_ AF and a maximum rate of diversion of \_\_\_\_\_ cfs.
  4. This approval does not grant a right-of-way across the land of another, does not create a continuing right to use water and may not be used in connection with a use which requires a continuing water supply.
  5. The department may cancel this approval at any time if the department identifies injury to other water rights.
  6. This approval expires on \_\_\_\_\_.
  7. This approval does not create a continuing right to use water.
  8. The holder of this temporary permit shall not divert at a rate or in a manner that will significantly reduce the flow in the water source or otherwise adversely affect fish, wildlife or other public values.
  9. Other: \_\_\_\_\_

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 199\_\_.

\_\_\_\_\_  
For the Director

## IN THE SENATE

## SENATE BILL NO. 1054

## BY RESOURCES AND ENVIRONMENT COMMITTEE

## AN ACT

RELATING TO THE APPROPRIATION OF WATER IN THE STATE OF IDAHO; AMENDING CHAPTER 2, TITLE 42, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 42-202A, IDAHO CODE, TO PROVIDE FOR THE TEMPORARY APPROVAL OF APPROPRIATIONS OF WATER BY THE DIRECTOR OF THE DEPARTMENT OF WATER RESOURCES; PROVIDING AN EXCEPTION FOR FIRE FIGHTING; AND DECLARING AN EMERGENCY.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Chapter 2, Title 42, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 42-202A, Idaho Code, and to read as follows:

42-202A. TEMPORARY APPROVAL -- APPLICATION -- CRITERIA -- EXCEPTIONS. (1) Any person, association or corporation hereafter intending to use the waters of any natural streams, springs or seepage waters, lakes or ground water, or other public waters in the state of Idaho, for a minor use of short duration may make application to the department of water resources for temporary approval.

(2) Application for temporary approval shall be upon forms provided by the department of water resources and shall be accompanied by a fifty dollar (\$50.00) fee.

(3) The director of the department of water resources is not required to publish notice of the application pursuant to the provisions of section 42-203A, Idaho Code, and is not required to make findings as provided in section 42-203A or 42-203C, Idaho Code. The director may, however, give notice of an application as he determines appropriate and may grant a temporary approval upon completion of the application form, payment of the filing fee, a determination by the director that the temporary approval can be properly administered, a determination that other sources of water are not available, a determination that approval is in the public interest and a determination that the temporary approval will not injure public values associated with the water source or any other water right. If the temporary approval is within a water district, the director shall seek and consider the recommendations of the watermaster before granting a temporary approval. The director may issue a temporary approval with the conditions determined by the director to be necessary to protect other water rights and the public interest.

(4) The recipient of any temporary approval issued pursuant to the provisions of this act shall assume all risk that the diversion and use of the water may injure other water rights, or otherwise not comply with the criteria described in section 42-203A(5), Idaho Code. Any applicant for a temporary approval who is aggrieved by a denial of the director of a temporary approval pursuant to this act may file an application to appropriate water as provided in section 42-202, Idaho Code.

(5) A temporary approval shall only be granted for a use not intended to become an established water right and for a use which will not exceed a total

1 diverted volume of five (5) acre feet for the duration of the approval, which  
2 shall not exceed one (1) year. Approvals issued under the provisions of this  
3 section constitute a waiver of the mandatory permit requirements of section  
4 42-201(2), Idaho Code, and do not create a continuing right to use water. Tem-  
5 porary approvals shall not be issued as an interim water supply for a use  
6 which requires a continuing water supply.

7 (6) The provisions of this section do not require a temporary approval  
8 before diverting and using water to extinguish or prevent the spread of an  
9 existing wildfire on private or public lands, facilities or equipment, includ-  
10 ing the use of water by personnel engaged in fighting an existing wildfire.

11 SECTION 2. An emergency existing therefor, which emergency is hereby  
12 declared to exist, this act shall be in full force and effect on and after its  
13 passage and approval.